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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re Li.M. et al., Persons Coming
Under the Juvenile Court Law.

B298477

(L.A. County Super. Ct.
No. 19CCJP00309A-B)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

P.M.,

Defendant and Appellant;

APPEAL from an order of the Superior Court of Los Angeles County, Emma Castro, Juvenile Court Referee. Dismissed.

Corey Evan Parker for Defendant and Appellant.

Office of the County Counsel, Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and David

Michael Miller, Deputy County Counsel, for Plaintiff and
Respondent.

P.M. (Mother) and D.B. (Father) are the parents of Li.M. and Le.M. (Minors).¹ The Department of Children and Family Services (Department) instituted dependency proceedings following an incident in which Father and Mother became embroiled in an argument and Father pushed Mother. The Department alleged the Minors were at risk of harm as a result of that instance of domestic violence and other past incidents, at least some of which occurred in the presence of the Minors. The juvenile court removed the Minors from Father's custody, sustained a dependency petition, and assumed jurisdiction over the Minors—placing them with Mother. Mother appealed; Father did not. Later, while the appeal was pending, the juvenile court terminated jurisdiction over the Minors with an order granting joint legal and physical custody to Father and Mother. We consider whether the termination of jurisdiction renders Mother's appeal of the juvenile court's jurisdiction finding moot.

I. BACKGROUND

The Department began its investigation when it learned in November 2018 that Mother reported a domestic violence incident to the police. The Department was told Mother and Father began arguing at a sporting event and continued arguing in a taxi to Mother's home. While in the taxi, Father pushed Mother's head up against window. When Mother and Father arrived at Mother's home, Father wanted his car keys, which

¹ Li.M. and Le.M. were four and three years old, respectively, when these dependency proceedings commenced.

were inside the home.² Mother did not let Father in because she did not want him around the Minors, who were also inside at the time. Father then approached Mother from behind, pushed her head down by the back of her neck, and grabbed her phone and purse. During the altercation, Father inflicted a half-inch bleeding laceration to Mother's hand, and Mother believed he dislocated her shoulder. The Department was also informed that Mother reported prior incidents of domestic violence to the police, including one in April 2017 in which Father punched Mother in the face in front of the Minors.

The Department filed a two-count dependency petition in January 2019. Both counts, pled under Welfare and Institutions Code section 300, subdivisions (a) and (b)(1),³ alleged Mother and Father had a history of engaging in violent altercations in the Minors' presence. Specifically, the petition identified six incidents of domestic violence during a two-year period from 2016 to 2018. The petition also alleged Mother failed to protect the Minors by allowing Father to have unlimited access to them. At the detention hearing held that same month, the juvenile court ordered the Minors would stay in Mother's custody during the pending proceedings.

The juvenile court held an adjudication and disposition hearing in April 2019. After hearing testimony and argument, and admitting certain documents into the record, the juvenile

² Mother and Father were not residing together when dependency proceedings commenced.

³ Undesignated statutory references that follow are to the Welfare and Institutions Code.

court amended the petition and sustained the allegations as amended.⁴ The amended allegations revised the dates on which some of the acts of abuse occurred, removed certain allegations of abuse by Father, and edited the allegation regarding Mother's failure to protect the Minors to state she allowed Father to have unmonitored (rather than unlimited) access to them.

The juvenile court placed the Minors with Mother. It ordered Mother to attend a domestic violence program for perpetrators, a toddler parenting class, mental health counseling, and individual counseling. The court ordered Father to participate in a domestic violence program for perpetrators, random drug testing, a toddler parenting class, and individual counseling. The court also ordered both Mother and Father to participate in an Evidence Code section 730 evaluation.

Mother appealed the juvenile court's jurisdiction finding. While the appeal was pending, the juvenile court terminated dependency jurisdiction over the Minors with an order granting Mother and Father joint legal and physical custody (with Mother's home as their primary physical residence).⁵ We invited the parties to submit letter briefs addressing whether Mother's

⁴ Mother, who was represented by private counsel, sought to call 19 witnesses and move over 70 exhibits into evidence. Two witnesses (a Department social worker and Mother) ultimately testified, and five of Mother's exhibits were admitted into evidence.

⁵ On our own motion, we took judicial notice of the orders terminating dependency jurisdiction and granting Mother and Father joint legal and physical custody. (Evid. Code, §§ 452, subd. (d), 459.)

appeal was moot as a result. The Department filed a letter brief arguing the appeal was moot. Mother's brief largely does not contest the Department's assertion that the termination of jurisdiction rendered the appeal moot; the focus of her argument is instead that we should exercise our discretion to consider the merits of her appeal.

II. DISCUSSION

“An appeal becomes moot when, through no fault of the respondent, the occurrence of an event renders it impossible for the appellate court to grant the appellant effective relief. [Citations.]’ (*In re Esperanza C.* (2008) 165 Cal.App.4th 1042, 1054[].)” (*In re Anna S.* (2010) 180 Cal.App.4th 1489, 1498.) “As a general rule, an order terminating juvenile court jurisdiction renders an appeal from a previous order in the dependency proceedings moot.” (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1488.) “[D]ismissal for mootness in such circumstances is not automatic, [however,] but ‘must be decided on a case-by-case basis.’” (*Ibid.*; see also *In re N.S.* (2016) 245 Cal.App.4th 53, 60 “[T]he critical factor in considering whether a dependency appeal is moot is whether the appellate court can provide any effective relief if it finds reversible error”].)

The juvenile court's order terminating jurisdiction withdrew the Department's supervision of the family and any further court involvement, granted Mother and Father joint custody, and designated Mother's home as the Minors' primary residence. Because there is no further relief we could grant Mother in this appeal from the court's jurisdiction findings, the appeal is moot.

Mother, however, asks us to exercise our discretion to decide the merits of the moot jurisdictional issue. She asserts *In re D.P.* (2014) 225 Cal.App.4th 898 and *In re Drake M.* (2012) 211 Cal.App.4th 754 support such an exercise of discretion. *In re D.P.* states a reviewing court may “exercise [its] discretion to reach the merits of a challenge to any jurisdictional finding when the finding may be prejudicial to the appellant.” (*In re D.P.*, *supra*, at 902.) *In re Drake M.* observes a reviewing court may exercise its discretion to consider a challenge to a jurisdiction finding that is moot by virtue of the existence of other sustained findings if the challenged finding “(1) serves as the basis for dispositional orders that are also challenged on appeal [citation]; (2) could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings [citations]; or (3) ‘could have other consequences for [the appellant], beyond jurisdiction’ [citation].” (*In re Drake M.*, *supra*, at 762-763.)

Neither case warrants an exercise of discretion to consider the moot issue here. Mother’s contention that the juvenile court’s findings could be prejudicial or have future adverse consequences is limited to conclusory, speculative assertions that the findings could “be used against her in any future dependency proceedings” or “serve as a basis for preventing [Mother] from being considered as a family resource . . . in any future dependency proceedings.” That is insufficient. (See, e.g., *In re N.S.*, *supra*, 245 Cal.App.4th at 62-63 [“We see no reason to review the juvenile court’s jurisdictional findings here on the basis of such speculation or caution. [¶] . . . [¶] [And w]e are unconvinced . . . that any ruling we could issue here would have any practical effect on future dependency proceedings”]; *In re I.A.* (2011) 201 Cal.App.4th 1484, 1494-1495.)

DISPOSITION

The appeal is dismissed as moot.

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BAKER, J.

We concur:

RUBIN, P. J.

MOOR, J.